

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

In re:

Charles Alexander Hill  
Angelia Flippen Hill  
3620 Harber Rd  
Chapel Hill, TN 37034  
xxx-xx-1617; xxx-xx-4768  
Debtors

BK: 1:19-bk-04317

Chapter 13

Judge Randal S. Mashburn

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The Deadline for Filing a Timely Response Is: 4/21/21

If a Response Is Timely Filed, the Hearing Will Be Held On: 5/21/21

Time and Location: 9:00 a.m. by AT&T Conference Line 888-363-4749, Access Code 6926390#

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**NOTICE OF MOTION FOR A DETERMINATION UNDER  
RULE 3002.1 FRBP RELATED TO THE CLAIM OF SN SERVICING CORP**

Charles Alexander Hill has asked the court for the following relief: Determination Under Rule 3002.1 FRBP related to the claim of SN Servicing Corp.

**YOUR RIGHTS MAY BE AFFECTED.** If you do not want the court to grant the attached motion by entering the attached order, or if you want the court to consider your views on the motion, then on or before the response date stated above, you or your attorney must:

1. File with the court your response or objection explaining your position. Please note: the Bankruptcy Court for the Middle District of Tennessee requires electronic filing. Any response or objection you wish to file must be submitted electronically. To file electronically, you or your attorney must go to the court website and follow the instructions at: <<https://ecf.tnmb.uscourts.gov>>.

If you need assistance with Electronic Filing you may call the Clerk's Intake Department at (615) 736-5584.

2. Your response must state the deadline for filing responses, the date of the scheduled hearing and the motion to which you are responding.

If a response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. **THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.** You may check whether a timely response has been filed by viewing the case on the court's website at <<https://ecf.tnmb.uscourts.gov>>.

If you or your attorney does not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter the attached order granting that relief.

Date: March 30, 2021

/s/ Keith D. Slocum

Keith D. Slocum - BPR No. 023024

Harlan, Slocum & Quillen

Attorney for the Debtors

39 Public Square

PO Box 949

Columbia, TN 38402-0949

Phone - 931/381-0660

Fax - 931/381-7627

[keith@robertharlan.com](mailto:keith@robertharlan.com)

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In re:

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xxx-xx-1617; xxx-xx-4768  
Debtors

BK: 19-04317-RM1-13

**MOTION FOR A DETERMINATION UNDER  
RULE 3002.1 FRBP RELATED TO THE CLAIM OF SN SERVICING CORP**

Comes the debtors through counsel and would request the court to enter an Order pursuant to Rule 3002.1 that determines the appropriate amount of change, if any, to be allowed for the claim of US Bank Trust National Association, as Trustee of BKPL Lodge Series I Trust, c/o SN Servicing Corp (hereinafter “SN”). For cause the debtors would show the Court as follows:

1. The Chapter 13 Case was filed July 8, 2019 and the claim of FCI Lender Services was included in Schedule D as a debt secured by the principle residence of the Debtors.
2. FCI Lender Services Filed a Proof of Claim (Claim No. 6) on August 20, 2019 which included \$0.00 for escrow deficiency and \$2,586.99 for a projected escrow shortage in the arrearage calculation. The Trustee filed a motion to disallow the claim because the 410a was defective in that it did not include information relating to the escrow account.
3. FCI filed an amended claim on November 11, 2019 adjusted the projected shortage amount to \$1,739.99 and left the escrow deficiency at \$0.00 and including information requested by the Trustee’s office.
4. The escrow analysis attached to the claim reflected escrow expenses of \$4,129.83 for insurance and \$847.00 for taxes. The new continuing payment was \$893.72 (\$478.98 Principal & Interest + \$414.74 escrow).

5. An Agreed Order was entered (ECF No. 39) on December 18, 2019 which allowed the claim as amended. The order also prohibited and forever barred the creditor and any other servicer from assessing any fees, costs, or set-off amounts against the Debtors or against the property that serves as collateral for its loan in connection with the motion resolved by the Agreed Order.
6. A Notice of Mortgage Payment Change was filed (ECF No. 41) on January 23, 2020 which reflected new escrow expenses of \$ 4,129.83 for insurance and \$959.00 for taxes and included a claimed shortage of \$65.30. The new payment was \$886.63 (\$457.12 Principal & Interest + \$424.07 escrow + \$5.44 shortage).
7. A Notice of Transfer of Claim (ECF No. 46) was filed on December 10, 2020 transferring the account to US Bank Trust National Association, as Trustee of BKPL Lodge Series I Trust, c/o SN Servicing Corp.
8. SN filed a Notice of Mortgage Payment Change (ECF No. 58) on March 29, 2021 which seeks to increase the payment for changes to the escrow expenses and collect a shortage amount. According to this Notice, the new escrow expenses are \$4,379.23 for insurance and \$959.00 for county taxes totaling \$5,338.23 requiring \$444.85 per month. Despite an increase of only \$249.40 since last year's payment change, this Notice seeks to collect a shortage of \$1,272.60. The transaction history included in the escrow analysis also appears to show additional payments for force placed insurance.
8. The arrearage claim is satisfied in full through the Debtors' plan and all continuing payments are current.
9. The Debtors object to the changes in the notice and request a hearing under Rule 3002.1 and an Order from this Court that disallows the changes sought in that notice. The

Debtors contend that the shortage amount claimed is excessive and that SN is not properly accounting for the escrow account as required by the provision of the Confirmation Order.

10. The Debtors further contend that the document filed by SN (ECF 58) was incorrectly filed and attempts to increase the mortgage payment for charges that are not justified and therefore the notice is a violation of Rule 3002.1(i) FRBP that supports an award of attorney fees and expenses to Debtors' counsel for bringing this action.

Based upon the foregoing the Debtors request that this Court:

1. After notice pursuant to Rule 9013, and an opportunity for a hearing thereon, that an Order be entered that denies the increase in mortgage payments sought by SN in the document filed in the case (ECF 58).
2. That the Court enter an Order determining that the shortage is \$249.40 and that SN shall be prohibited from collecting any additionally claimed shortage amount.
3. That the Court enter an Order determining the payment to be \$880.47 (\$414.84 Principal & Interest + \$444.85 escrow + \$20.78 shortage) effective with the May 1, 2021 payment.
4. That the Court enter an award of attorney fees and expenses to counsel for the Debtors after a finding that the notice filed by SN failed to satisfy the requirements of Rule 3002.1 FRPB.
5. For such other relief as the Court deems appropriate.

Respectfully submitted March 30, 2021.

/s/ Keith D. Slocum

Keith D. Slocum - BPR No. 023024  
Harlan, Slocum & Quillen  
Attorney for the Debtors  
39 Public Square  
PO Box 949  
Columbia, TN 38402-0949  
Phone - 931/381-0660  
Fax - 931/381-7627

**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that I have mailed or sent by electronic case noticing a true and exact copy of the foregoing to Charles Alexander Hill and Angelia Flippen Hill, the affected creditor, to Henry E. Hildebrand, III the Chapter 13 and to the U.S. Trustee's Office, by placing the same in the U.S. Mail, postage pre-paid, March 31, 2021.

SN Servicing Corporation  
323 5th Street  
Eureka, CA, 95501

Kathy Watson  
Bankruptcy Asset Manager  
323 5<sup>th</sup> Street  
Eureka, CA 95501

SN Servicing Corporation  
E. Hammett  
13702 Coursey Blvd, Ste 1A  
Baton Rouge, LA 70817-1370

SN Servicing Corporation  
c/o The Prentice-Hall Corporation System, Inc.  
2908 Poston Ave  
Nashville, TN 37203-1312

/s/ Keith D. Slocum  
Keith D. Slocum - BPR No. 023024  
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Judge Randal S. Mashburn

**ORDER UNDER RULE 3002.1 TO**  
**DISALLOW THE CHANGE IN MORTGAGE CLAIM**

This Order is submitted to the Court by the Debtors for the purpose of approving a Motion by the Debtors under Rule 3002.1 Federal Rules of Bankruptcy Procedure to deny changes to the mortgage claim sought by US Bank Trust National Association, as Trustee of BKPL Lodge Series I Trust, c/o SN Servicing Corp (hereinafter “SN”) by a document filed in the case (ECF 58). Notice having been given and no timely objection raised the Court finds the Motion should be granted.

IT IS THEREFORE ORDERED:

1. The change to the mortgage claim sought by SN Servicing Corp in the document filed in this case (ECF 58) is denied.
  2. The escrow shortage is \$249.40 to be repaid over the next 12 months.
  3. The continuing payment shall be \$880.47 (\$414.84 Principal & Interest + \$444.85 escrow + \$20.78 shortage) effective with the May 1, 2021 payment.
2. The notice filed by SN in this case is deemed inadequate and therefore fails to satisfy the requirements of Rule 3002.1(c) and (i) and that counsel for the Debtors is awarded attorney fees and expenses incurred in bringing this Motion before the Court in the amount of \$\_\_\_\_\_ to be paid by SN.

**This order was signed and entered electronically as indicated at the top of the page.**

APPROVED FOR ENTRY:

/s/ Keith D. Slocum  
Keith D. Slocum - BPR No. 023024  
Harlan, Slocum & Quillen  
Attorney for the Debtors  
39 Public Square  
PO Box 949  
Columbia, TN 38402-0949  
Phone - 931/381-0660  
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CERTIFICATE OF COMPLIANCE

I, the undersigned, do hereby certify that I have mailed or sent by electronic case noticing a true and exact copy of the foregoing to Charles Alexander Hill and Angelia Flippen Hill, the affected creditor, to Henry E. Hildebrand, III the Chapter 13, and to the U.S. Trustee's Office, by placing the same in the U.S. Mail, postage pre-paid, March 31, 2021.

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